



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
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ARNOLD SCHWARZENEGGER
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May 19, 2008

Rajiv Bhatia, M.D.
Director
San Francisco City and County Public Health Department
1390 Market Street, Room 210
San Francisco, California 94102

Dear Dr. Bhatia:

The California Environmental Protection Agency (Cal/EPA), Department of Toxic Substances Control, the Office of the State Fire Marshal, and the State Water Resources Control Board conducted a program evaluation of the San Francisco City and County Public Health Department Certified Unified Program Agency (CUPA) on Wednesday, March 12, 2008 and Thursday, March 13, 2008. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that San Francisco City and County Public Health Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on July 14, 2008.

Cal/EPA also noted during this evaluation that San Francisco City and County Public Health Department has worked to bring about a number of local program innovations, including implementation of Green Programs and the use of "compliance conferences" for recalcitrant businesses. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc/Sent via email:

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: San Francisco City and County Public Health Department

Evaluation Date: March 12 and 13, 2008

EVALUATION TEAM

Cal/EPA: Kareem Taylor

SWRCB: Sean Farrow

DTSC: Asha Arora

OSFM: Francis Mateo

US EPA: Robin Holloway

US EPA: Bobby Ojha

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

<u>Deficiency</u>		<u>Preliminary Corrective Action</u>
1	<p>The CUPA is not conducting CalARP inspections with a frequency that is consistent with its Inspection and Enforcement Plan. Specifically, the CUPA did not meet its scheduled CalARP inspection frequency of one inspection each year for fiscal years (FY) 06/07 and 04/05.</p> <ul style="list-style-type: none">• In FY 06/07, the CUPA routinely inspected 33% or 1 of its 3 CalARP facilities.• In FY 05/06, the CUPA routinely inspected 100% of its CalARP facilities.• In FY 04/05, the CUPA routinely inspected 75% or 3 of its 4 CalARP facilities. <p>CCR, Title 27, Section 15200 (a) (Cal/EPA)</p>	<p>By December 31, 2008, the CUPA will inspect all CalARP facilities annually.</p> <p>On the CUPA's first status report, develop an action plan that details how the CUPA plans to inspect all CalARP facilities annually.</p>
2	<p>The CUPA has not met the mandated inspection frequency for underground storage tank (UST) facility compliance inspections during the last three fiscal years.</p> <ul style="list-style-type: none">• FY 06/07, the CUPA routinely inspected 82% of its UST facilities;• FY 05/06, the CUPA routinely inspected 88% of its	<p>By December 31, 2008, and each subsequent year, the CUPA will inspect every UST within its jurisdiction at least once every year.</p> <p>On the CUPA's first status report, develop an action plan that details how</p>

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	<p>UST facilities;</p> <ul style="list-style-type: none"> • FY 04/05, the CUPA routinely inspected 72% of its UST facilities. <p>The CUPA's goal is to meet its UST inspection frequency by conducting routine inspections during annual monitoring certifications. The CUPA has achieved a 48% routine inspection frequency for FY 07/08 thus far and should reach 100% this year.</p> <p>HSC, Chapter 6.7, Section 25288 (a) (SWRCB)</p>	<p>the CUPA plans to inspect all UST facilities annually.</p>
3	<p>The CUPA is not meeting its inspection frequencies for the tiered permitting program element.</p> <p>A review of files showed that of the 7 Tiered Permitting files reviewed, 2 had not been inspected in the past 3 years.</p> <p>For example:</p> <ul style="list-style-type: none"> • SF USD #250 was last inspected on 10/1/02. • There was no documentation to verify whether Watermark Press was inspected for tiered permitting. • SF Recycling was last inspected on 11/17/04. <p>CCR, Title 27, Section 15200 (f) (DTSC)</p>	<p>By December 31, 2008, The CUPA will inspect at least one third of its tiered permitting facilities.</p> <p>On the CUPA's first status report, develop an action plan that details how the CUPA plans to inspect all tiered permitting facilities once every three years.</p>
4	<p>The CUPA is not conducting Hazardous Waste Generator (HWG) inspections with a frequency that is consistent with its Inspection and Enforcement Plan. Specifically, the CUPA did not meet its scheduled HWG inspection frequency of one inspection every three years.</p> <p>A review of files showed that of the 28 generator files reviewed, 4 had not been inspected in the past 3 years.</p> <ul style="list-style-type: none"> • In FY 06/07, the CUPA routinely inspected 31% or 385 of its 1239 HWG facilities. • In FY 05/06, the CUPA routinely inspected 27% or 337 of its 1244 HWG facilities. • In FY 04/05, the CUPA routinely inspected 26% or 332 of its 1283 HWG facilities. <p>The CUPA has regulated an average of 1257 HWG facilities over the past 3 FYs. The CUPA has routinely inspected 84% or 1054 of its HWG facilities in the past 3 FYs.</p> <p>CCR, Title 27, Section 15200 (a) (DTSC)</p>	<p>By March 14, 2009, the CUPA will inspect at least one third of its HWG facilities.</p> <p>On the CUPA's first status report, develop an action plan that details how the CUPA plans to inspect all HWG facilities once every three years.</p>

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5	<p>The CUPA did not conduct the DTSC oversight inspection in a manner consistent with state statute or regulation for businesses subject to the HW large quantity generator (LQG) program. During the oversight inspection of the U.S. Mint, the CUPA inspector missed the following violations:</p> <ul style="list-style-type: none"> • Failure to obtain authorization for the onsite treatment of hazardous waste. • Failure to have a written inspection schedule (container -weekly and emergency equipment - monthly); and failure to conduct inspections and maintain records of inspections for the emergency equipment conducted, including corrections made. • Failure to make hazardous waste determination. • Failure to have SB14 and summary progress reports (SPR). <p>CCR, Title 27, Section 15200 (DTSC)</p>	<p>Effective immediately, the CUPA shall ensure that they are conducting inspections in a manner consistent with state statute or regulation for businesses subject to HW LQG program.</p> <p>Next week, the CUPA inspector plans to visit the U.S. Mint and provide a final inspection report that includes the missing violations observed by DTSC staff.</p> <p>By September 14, 2008, the CUPA staff will participate in LQG training offered by DTSC.</p>
6	<p>The CUPA is not citing violations consistent with definitions of minor, Class II or Class I as provided in statute and regulation. For example:</p> <p>Most of the inspection reports noted minor violation or no violations. Notice of violations rarely noted the class of violations. For example:</p> <ul style="list-style-type: none"> • In the inspection report dated 8/1/06, BAE Systems San Francisco Ship Repair, hazardous waste release was cited as a minor violation. • In the inspection report dated 8/16/07, Shell Corp., hazardous waste stored over the duration allowed without a permit was cited as a Class II violation. • In the 2006 and 2007 inspection reports for the U.S. Mint, the facility was not cited for unauthorized onsite hazardous waste treatment. <p>These types of violations are considered Class I violations.</p> <p>CCR, Title 27, Section 15200 (f) (2) HSC, Section 66260.10 and 25187.8 (g) (1) (DTSC)</p>	<p>The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include the Cal/EPA “Violation Classification Guidance Document for Unified Program Agencies” which can be found on the Cal/EPA website under Unified Programs-Technical Assistance.</p> <p>By September 14, 2008, the CUPA staff will participate in violation determination training offered by DTSC.</p>
7	<p>The CUPA did not demonstrate that its staff had been adequately trained in the tiered permitting program and in the identification of hazardous waste violations. For example, the U.S. Mint has been inspected several times and yet the facility was never cited for:</p> <ul style="list-style-type: none"> • Unauthorized treatment of hazardous waste. 	<p>By September 14, 2008, the CUPA shall train its staff in the tiered permitting program and in the identification and citation of hazardous waste violations.</p>

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	<ul style="list-style-type: none"> • Failure to make hazardous waste determination. • Failure to have SB14 and summary progress reports (SPR). <p>Title 27, CCR, Section 15260 (a) (3) (B) (DTSC)</p>	
8	<p>The CUPA has not submitted LQG quarterly reports to DTSC since June 2006. A “RCRA LQG Inspection and Enforcement Data” letter that DTSC sent to all CUPAs requested that the CUPA submit LQG reports to DTSC on a quarterly basis.</p> <p>CCR, Title 27, Section 15290 (e) (DTSC)</p>	<p>By September 14, 2008, the CUPA will submit LQG reports to DTSC on a quarterly basis.</p>

CUPA Representative

Sue Cone

(Print Name)

Original signed

(Signature)

Evaluation Team Leader

Kareem Taylor

(Print Name)

Original signed

(Signature)

Certified Unified Program Agency (CUPA)
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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** In the CUPA's inspection reports reviewed, the columns on the inspection checklist designated for violation classification were rarely used when violations were cited. If inspection reports contained violations, the classifications would be entered in the CUPA's access database.

Recommendation: Classify any violations cited during inspections by marking the appropriate column on the inspection report checklist for Class 1, Class 2, or minor violations.

2. **Observation:** In general, CUPA inspectors write the names of the owners/operators in the "Consent to Inspect" section of the inspection report. It is unclear whether owners/operators of facilities are actually consenting to inspections.

Recommendation: CUPA inspectors should ask facility owners/operators to sign their name in the "Consent to Inspect" section of the inspection report. A signed consent by owners/operators will strengthen any enforcement case against violators should formal enforcement become necessary.

3. **Observation:** The Environmental Health Section Administrative Group is responsible for tracking CUPA revenues and expenditures. The CUPA manager does not have an easy mechanism for reviewing CUPA budgetary information from the Environmental Health Section Administrative Group.

Recommendation: The CUPA may want to develop a spreadsheet that documents revenue and expenditure information specific to the CUPA. It may be beneficial to have the Environmental Health Section Administrative Group enter CUPA budget information into a spreadsheet and send it to the CUPA at the end of each fiscal year. The spreadsheet should include the CUPA's proposed budget for the following fiscal year.

4. **Observation:** During the file review, it was very difficult for evaluators to find specific information in the CUPA's Captaris/Alchemy Image databases. Evaluators had to run a search on four different image databases to find CUPA documents. Inspection report files were labeled "NOV" (notice of violation) even though there were no violations cited. There were also duplicate inspection reports, financial responsibility documents, and monitoring certifications scanned. Some of the scanned documents were incomplete or not up-to-date. The CUPA is aware of some of these issues and is working to correct them.

Recommendation: The CUPA may want to merge documents from the four Captaris/Alchemy Image databases into one database taking care not to include any duplicate items. Also, instead of the label "NOV" for inspection report files, the CUPA may want to label the files "INSP" with a date indicator such as "INSP031108." Administrative staff should ensure that all CUPA files in Captaris/Alchemy are complete and up-to-date.

5. **Observation:** The inspection reports reviewed contain an inspection report issuance date, but this date may not be the actual date of inspection.

Recommendation: It is good policy to include the actual date of inspection on inspection reports.

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- 6. Observation:** The UST Inspection checklist does not identify Significant Operational Compliance (SOC) items or provide for a summary of these items for tracking purposes.

Recommendation: Provide a means for determining SOC compliance during the inspection and provide a means for tracking the compliance in order to provide the data for Report 6.

- 7. Observation:** The CUPA has access to a camera to document violations at UST facilities.

Recommendation: Photographs are useful to document violations and the conditions at facilities. Photographs could help strengthen your case should enforcement become necessary. Always remember to date stamp photographs.

- 8. Observation:** During the UST oversight inspection, there was some confusion when looking at the monitoring system. Office paperwork indicated that the facility was using the Veeder-Root TLS 350 for its monitoring system. The facility is actually using an older Veeder-Root TLS 250 for the ATG portion and a Gilbarco EMC system for the monitoring of the sensors.

Recommendation: CUPA inspectors should thoroughly review facility files prior to conducting facility inspections. This might encompass going through older scanned documents to make sure that the technicians performing the monitoring certifications are filling out the forms correctly. CUPA inspectors might also want to review the monitoring plan associated with the facility, making sure that what is observed onsite matches what is written in the plan.

- 9. Observation:** During the UST oversight inspection, the technician performing the annual monitoring certification seemed to rush things. The CUPA inspector took control of the situation by stepping in and telling the technician that he wanted to see things done in a particular order. The CUPA inspector went as far as having the technician re-certify the turbine sump sensors because he wanted to make sure that the monitoring system was indeed alarming when the sensors were dipped into water.

Recommendation: none

- 10. Observation:** During the UST oversight inspection, the CUPA inspector did not include as a violation that the line leak detector for the premium fuel failed its initial test. The CUPA inspector noted this violation in his field notes, but forgot to write it into the actual report.

Recommendation: In the future, be aware of any and all violations and make sure they are noted in the inspection report.

- 11. Observation:** The CUPA inspector has a complete UST Inspection File Review and Field Checklist Form. This form includes the following fields:

- A section that identifies facility name, inspection date, operator, etc
- A section that identifies Forms A - E, site maps, Financial Responsibility, and previous inspection dates and whether they are complete or incomplete.
- A Tank information section.
- A Field Checklist that shows what needs to be inspected at the facility.

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Recommendation: None.

- 12. Observation:** The Policies and Procedures in the CUPA computer files for fire department notification, navigating the Captaris/Alchemy database, and record retention were not up-to-date.

Recommendation: The CUPA should periodically review their “soft” Policies and Procedures to ensure that they are updated.

- 13. Observation:** The inventory statement information in MS Access does not exist except for the material amounts. The window to view Chemical Inventory Description Information is “Under Construction” and information cannot be accessed. The user has to go to Captaris/Alchemy to retrieve chemical inventory information from the scanned documents. Some of the information stored in the CUPA databases is incomplete or not up-to-date, such as, chemical or hazardous materials information and annual certification information.

Recommendation: If the CUPA continues to use both MS Access and Captaris/Alchemy, it should ensure that information on both software programs is complete, up-to-date, and compatible.

- 14. Observation:** The CUPA inspector conducted a complete site walkthrough of the U.S. Mint facility during the oversight inspection. The inspector reviewed applicable documents and built a good rapport with the facility representatives. The CUPA inspector was also professional and courteous in explaining hazardous waste requirements like his recommendation to place labels on universal waste lamp containers.

Recommendation: CUPA inspectors should continue to make helpful recommendations to facility owners/operators.

- 15. Observation:** Additional information could be added to the CUPA’s inspection reports to support class I and II violations.

Recommendation: DTSC recommends that the inspector add the details of observed violations to provide a clear and concise picture of any violations. More details in inspection reports will strengthen any potential case if enforcement actions are taken. An inspector should request a map of the facility with hazardous waste management areas noted so that areas where violations were cited can be easily identified.

- 16. Observation:** The CUPA summary report indicated that only three out of 15 LQGs have return to compliance (RTC). In discussion with the CUPA program manager, it was unclear whether RTC was documented properly in the summary reports.

Recommendation: DTSC strongly recommends that the CUPA ensure that RTC is properly reported.

- 17. Observation:** The file review indicated that the CUPA rarely noted EPA ID #s in the HWG inspection reports.

Recommendation: DTSC strongly recommends the CUPA include EPA ID #s for all HWG inspection reports.

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18. Observation: Although, the CUPA has developed an excellent enforcement program, no formal enforcement actions have been taken since FY 02/03 for RCRA LQGs. As noted in the deficiency/corrective action section above, RCRA LQG violations were observed by DTSC staff during the oversight inspection, but were not reported by the CUPA inspector. Other RCRA LQG violations may have been missed during past inspections. Staff training is required for CUPA staff on RCRA LQG regulation.

Recommendation: The CUPA should train its staff on RCRA LQG regulation.

19. Observation: The file review showed that the CUPA may not have identified all of its RCRA LQG and tiered permitting facilities.

Recommendation: DTSC recommends that the CUPA perform a QA/QC audit of their files to identify their universe of RCRA LQGs and tiered permitting facilities.

20. Observation: The CUPA has not submitted quarterly reports to DTSC for LQGs since June 2006.

Recommendation: DTSC strongly recommends that the CUPA first identify their LQG universe and then submit LQG reports to DTSC on a quarterly basis as per the CUPA's enforcement response plan.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA has implemented Green Programs, which includes pollution prevention, Clean and Green, and the Green Business programs. The Clean and Green program provides free pollution prevention workshops, environmental tools, private consultation, and health education materials to San Francisco businesses and agencies. The program helps businesses avoid or reduce the use of toxic chemicals in an effort to decrease health related hazards to workers while promoting environmental health. Exemplary businesses receive award recognition at a publicly announced meeting. The Green Business program promotes, recognizes and provides hands-on support to local businesses and government agencies that go beyond the Clean and Green program standards and incorporate energy, water, and solid waste conservation measures.
2. The CUPA's website is well maintained and easily assessable and navigable. The site includes information in several languages and includes: fact sheets, compliance guidelines, and required forms (applications) that cover all Unified Program elements. To streamline and simplify the compliance process, there is a web link called "Forms Chart" where regulated business owners/operators may click on to quickly identify the program elements and the associated forms they require to complete and submit. The forms may be downloaded or obtained through a convenient "FAX Backline," that allows businesses to obtain forms automatically from the CUPA by fax.
3. The CUPA has an excellent enforcement program. In particular, they have developed and implemented a "compliance conference" process where businesses that remain out of compliance are notified to appear at the CUPA's office to discuss options for compliance. This is the last step before formal enforcement is initiated and penalties are assessed. To date, this enforcement tool has proven to be the most effective and efficient method for obtaining "return to compliance" status. The CUPA's Administrative Enforcement process has been a very effective in gaining compliance and penalizing non-compliers. The Administrative Enforcement process includes: Expedited Settlement Agreements used to enforce the failure to maintain valid compliance certifications (permits), Administrative Enforcement Orders (AEO) used for hazardous waste generator violations, and Administrative Civil Penalties (ACP) used for hazardous materials violations. Expedited settlement agreements impose a standard penalty amount that is usually equal to the maximum site investigation fee. The CUPA maintains a good working relationship with the city attorney and the district attorney.
4. The CUPA has a very low staff turn-over rate. As a result, the CUPA has highly experienced and trained staff. Most of the staff has served the CUPA for an average of at least 12 to 13 years.
5. The CUPA just recently acquired a Hazardous Materials vehicle ("rig") to use for incident response. It is a well-equipped vehicle with unlimited capabilities in terms of monitoring, hazardous material identification, toxic gas detection, and identification of unknown materials. The vehicle also has personnel protective equipment supplies and communication tools. Some outstanding features of the computers and instruments include the ability to obtain real-time data from the on-board weather station and download the data to a software program that can instantly establish safety zones on a GIS mapping screen. It also includes wireless and dedicated-line capability during emergencies.